

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

OWEN J. ROGAL, D.D.S., P.C.,

Plaintiff,

V.

SKILSTAF, INC.,

Defendant.

**CIVIL ACTION NO.
3:06-cv-00711-MHT**

FILED UNDER SEAL

INDEX TO EXHIBITS

In support of Defendant's Motion for Summary Judgment, Defendant Skilstaf, Inc. will submit contemporaneously herewith the Affidavit of Robert Johnson and, pursuant to the Protective Order entered by the Court on January 11, 2007, will submit contemporaneously herewith under seal the following exhibits.

Exhibit A: The Summary Plan Description for the Skilstaf Group Health Plan, Skilstaf-00001 through Skilstaf-00085.

Exhibit B: Excerpts from Skilstaf-00085 through Skilstaf-02129, which is the Administrative Record.

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OWEN J. ROGAL, D.D.S., P.C.,)

Plaintiff,)

v.)

SKILSTAF, INC.,)

Defendant.)

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AFFIDAVIT OF ROBERT JOHNSON

STATE OF ALABAMA)

TALLAPOOSA COUNTY)

Personally appeared before me, a Notary Public in and for said County and State, Robert Johnson, who being known to me, and first duly sworn, deposes and says:

1. My name is Robert Johnson. I am over the age of 21 and I am competent to make this affidavit. I have personal knowledge of the statements made herein unless otherwise noted, all of which are correct and true.

2. I am the Chief Benefits Officer at Risk Reduction, Inc. ("RRI"). RRI is the Plan Administrator for the Skilstaf Group Health Plan (the

“Plan”). As part of my responsibilities for RRI, I am familiar with RRI’s procedures for processing and administering claims for health coverage under group health plans, including the claim at issue herein. I am personally familiar with the manner in which RRI maintains files and records, including those that relate to Owen J. Rogal, D.D.S., P.C.’s (“Plaintiff”) claim for coverage of the costs it incurred in connection with its treatment of Dennis Berry. I am authorized to submit this Affidavit as a representative of RRI.

3. The documents attached hereto are kept by RRI in the regular course of business relative to claims for benefits, and such records are made at the time of the acts, transactions, occurrences and/or events reflected in the records, or within a reasonable time thereafter, by someone with personal knowledge of such acts, transactions, occurrences and/or events.

4. Attached hereto as Exhibit A, Skilstaf-00001 through Skilstaf-00085, is a true and correct copy of the summary plan description of the Plan. As an employee of Newspaper Processing, Inc., Dennis Berry was a participant in the Plan during the time relevant to the Complaint.

5. Attached hereto as Exhibit B, are true and correct copies of excerpts from Skilstaf-00085 through Skilstaf-02129, which is the

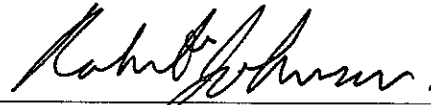
Administrative Record maintained by RRI with respect to Plaintiff's claim for coverage.

6. On April 19, 2005, RRI notified Robert Cole, Plaintiff's attorney, that the claims Plaintiff had submitted in connection with its treatment of Dennis Berry were not covered under the terms of the Plan because "the bills in question [were] the result of an alleged work-related injury or [were] otherwise subject to workers' compensation law." Ex. B, Skilstaf-00101.

7. Neither Plaintiff nor Mr. Cole ever submitted any documentation that conflicted with RRI's understanding that Plaintiff's bills arose in connection with Plaintiff's treatment of Mr. Berry's work-related injury.

8. Neither Plaintiff nor Mr. Cole ever appealed RRI's initial decision to deny payment of Plaintiff's claims.

I have read the foregoing Affidavit, ¶¶ 1-8, and I swear and affirm that it is true and correct to the best of my knowledge and belief.



Robert Johnson

Sworn to and subscribed before me
on this the 5th day of April, 2007.


NOTARY PUBLIC

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Jan 29, 2011
BONDED THRU NOTARY PUBLIC UNDERWRITERS